

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4000 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NARAN KARA RABARI

Versus

DISTRICT MAGISTRATE, JAMNAGAR & ORS

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Appearance:

MR Kodekar for Mr. V.H.Patel, Advocate for Petitioner  
Mr. Nigam R. Shukla, A.G.P. for respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 22/10/96

ORAL JUDGEMENT

This Special Civil Application is directed against detention order dated 24th April, 1996 passed by the District Magistrate, Jamnagar detaining the petitioner under the provisions of Gujarat Prevention of Anti-social Activities Act, 1985. The detention order

was executed 24th April, 1996 and since then the petitioner is under detention lodged at District Jail, Junagadh.

2. The Special Civil Application was filed on 12th June, 1996 and on 13th June, 1996 Rule returnable for 28th June, 1996 was issued. So far no reply has been filed on behalf of the respondents nor any affidavit in reply has been filed by the detaining authority.

3. The grounds enclosed with the detention order show that five criminal cases were registered against the petitioner under Prohibition Act at Jamjodhpur police station and the same were pending trial, although the learned counsel for the petitioner has submitted that one of the cases that is last case was pending police investigation. After taking notice of these criminal cases, the detaining authority has also referred to four statements made by the witnesses on 8th April, 1996 wherein the witnesses have stated that the petitioner was engaged in anti-social activities and the business of unauthorised liquor, was pressurising witnesses to stock liquor at their places, has been beating witnesses and has thus become a problem for public order. The detaining authority has also found that the petitioner was a bootlegger and it was necessary to detain him in order to prevent him from continuing his anti-social activities and accordingly, the detention order was passed. Although the detention order has been challenged on several grounds, at the time of arguments, learned counsel for the petitioner kept his arguments confined to the question that it was not a case of breach of public order and even if the allegations and the material as has been used against the petitioner by the detaining authority is taken into consideration, it may amount to a case of breach of law and order and therefore, the detention order cannot be sustained in the eye of law.

4. For the detailed reasons stated in the decision dated 4th October, 1996 rendered by this Court, in Special Civil Application No. 3879 of 1996, it is clear that the material as has been used in the present case even if taken to be true, may at the most make out a case of breach of law and order and there is no question of breach of public order. In view of the reasons contained in the aforesaid decision, the present impugned detention order cannot be sustained in the eye of law.

5. Accordingly, the Special Civil Application is allowed. The impugned order dated 24th

April, 1996 passed by the District Magistrate, Jamnagar, is quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is accordingly made absolute.